

BIENERT, MILLER & KATZMAN

A Professional Law Corporation

November 22, 2016

BY ECF

The Honorable P. Kevin Castel
United States District Court
Southern District of New York
500 Pearl Street
New York, NY, 10007-1312

Re: *United States v. Bergstein et al*, Case No. 16-cr-746-PKC-1

Dear Judge Castel:

As your Honor is aware, our office represents David Bergstein ("Mr. Bergstein"), defendant in this case. When we appeared before your Honor on Thursday, November 17 for Mr. Bergstein's arraignment and the initial scheduling conference, we requested that Mr. Bergstein be permitted to take a pre-paid trip with his family. Currently, Mr. Bergstein may only travel throughout California and to the Southern District of New York. Your Honor instructed us to submit a letter to the Court setting forth the request. This letter follows.

On May 31, 2016, Mr. Bergstein's wife booked a one-week trip for Mr. Bergstein's family (including Mrs. Bergstein and Mr. Bergstein's two sons, Zachary and Leo), to the Beaches resort in Turks & Caicos, arriving December 16, 2016 and returning December 23, 2016. Mr. Bergstein's family will be travelling with another family. The trip was booked and paid for in full prior to Mr. Bergstein's indictment. A true and correct copy of the invoice for that trip showing it is fully paid, as well as a redacted American Express statement showing the payment, is attached hereto as Ex 1.

Mr. Bergstein respectfully requests that the Court allow him to travel on this one-week trip with his family. Mr. Bergstein is not a flight-risk. For example, prior to the unsealing of the indictment, Mr. Bergstein had a pre-planned trip to visit his mother in Israel. Upon learning that he was a subject of the government's investigation, Mr. Bergstein advised the government of this pre-planned trip, and the government indicated that it had no issue with Mr. Bergstein travelling to Israel (however, Mr. Bergstein subsequently canceled the trip of his own accord). Moreover, Mr. Bergstein was aware of the investigation and potential indictment for several months, and offered to self-surrender in the event that the government decided to proceed with an indictment. Furthermore, Mr. Bergstein's appearance in this case is assured by a \$2,000,000 unsecured bond as well as a \$600,000 secured bond, and he is anxious to defend and resolve this case.

Pre-trial services has indicated that it does not object to this request, provided that, if granted, Mr. Bergstein re-surrender his passport to his supervising pretrial services officer in California within forty-eight (48) hours of his return, which Mr. Bergstein

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agrees to do. At the hearing on November 17, the government indicated that it opposes this request.

[For the foregoing reasons, Mr. Bergstein respectfully requests that he be permitted to attend the pre-paid and pre-planned trip with his family to the Beaches resort in Turks and Caicos from December 16, 2016 through December 23, 2016. Within forty-eight (48) hours of his return from the trip, Mr. Bergstein will contact his supervising pretrial services officer and re-surrender his passport.]

Regards,

BIENERT, MILLER & KATZMAN, PLC

/s/ Thomas H. Bienert, Jr.

Thomas H. Bienert, Jr.

cc:

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Application granted.

SO ORDERED.

Dated: 11/29/2016


P. Kevin Castel
United States District Judge